

MEMO ENDORSED

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September 12, 2022

VIA ECF

The Honorable Katherine Polk Failla
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Iowa Pub. Emps.' Ret. Sys. et al. v. Bank of Am. Corp. et al.*,
No. 17-cv-6221 (KPF)

Dear Judge Failla:

Section 9 of the Protective Order (Dkt. No. 150), as amended by the Supplemental Stipulated Protective Order (Dkt. No. 228), provides that for any filing that quotes or refers to discovery material that has been designated Confidential, Highly Confidential, or Highly Confidential Data, the party “shall request to file such documents or portions thereof containing or making reference to such material or information in redacted form or under seal.” Consistent with the process this Court approved for such requests (Dkt. No. 408), the Parties now move for sealing or redaction of Defendants’ Objections to Magistrate Judge Cave’s Report and Recommendation Regarding Class Certification (“Defendants’ Objections”) and the Declaration of Michael A. Paskin in support of Defendants’ Objections (“the Declaration”). The Parties’ justifications for sealing or redacting those materials under *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), and its progeny are as follows.

Defendants’ Justifications and Designations

Defendants’ Objections (Dkt. No. 576) and the Declaration (Dkt. No. 577) quote from, discuss, and make reference to the substance of documents and data designated “Confidential” and “Highly Confidential” under the Parties’ January 2, 2019 Protective Order (Dkt. No. 150), and “Highly Confidential Data” under the Parties’ October 30, 2019 Supplemental Protective Order (Dkt. No. 228). Such materials include trade secrets, other confidential research, development, or commercial information, and other private or competitively sensitive information, including

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personal data. Accordingly, Defendants request that the marked portions of Defendants' Objections and the Declaration dated August 15, 2022 be filed in redacted form. This is in accordance with Section 9 of the Protective Order, which provides that for "papers containing or making reference to the substance of ["Confidential", "Highly Confidential", or "Highly Confidential Data"] material or information, [a Party] shall request to file such documents or portions thereof containing or making reference to such material or information in redacted form or under seal."

Defendants' Objections also quote from, discuss, and refer to the substance of discovery material produced by Third-Parties subject to confidentiality designations, which likewise include trade secrets, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data. Defendants have proposed, and Plaintiffs have had the opportunity to review, filing such materials under seal or with redactions consistent with the designations made by Third-Parties and *Lugosch*. Accordingly, Defendants request on their behalf that marked portions of Defendants' Objections be filed in redacted form.

Plaintiffs' Justifications and Designations

Defendants' Objections (Dkt. No. 576) and the Declaration (Dkt. No. 577) quote from, discuss, and refer to discovery material produced by Plaintiffs subject to confidentiality designations, which include trade secrets, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data. Defendants' Objections and the Declaration likewise reference materials previously sealed by this Court. *See e.g.*, Dkt. No. 391. Accordingly, Plaintiffs request that the marked portions of Defendants' Objections and the Declaration be filed in redacted form, pursuant *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006) and its progeny.

Respectfully submitted,

/s/ Richard F. Schwed

Richard F. Schwed

Counsel for the Bank of America Defendants

Application GRANTED. The Clerk of Court is directed to maintain docket entries 576 and 577 under seal, viewable only to the parties and Court.

The Clerk of Court is directed to terminate the motion at docket entry 584.

SO ORDERED.

Dated: September 13, 2022
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE